

ORIGINAL

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

United States District Court

for the

DISTRICT OF HAWAII

JUL 14 2006
at 9 o'clock and 10 min. M
SUE BEITIA, CLERK**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender***(Probation Form 49, Waiver of Hearing is Attached)*

Name of Offender: JOSE RANDOLPH BUSTAMANTE Case No. CR 00-00421DAE-01

Name of Sentencing Judicial Officer: The Honorable David Alan Ezra
U.S. District Judge

Date of Original Sentence: 5/16/2001

Original Offense: Counts 1 through 3: Distribution of Methamphetamine, in violation of
21 U.S.C. § 841(a)(1), a Class C felonyCount 4: Distribution of 5 Grams or More of Methamphetamine, in
violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, a Class B felonyOriginal Sentence: Sixty (60) months imprisonment as to each of Counts 1, 2, 3, and 4
of the Indictment, all such terms to run concurrently, and five
(5) years supervised release as to each of Counts 1, 2, 3, and 4 of
the Indictment, all such terms to run concurrently. The following
special conditions were ordered: 1) The defendant shall participate
in a substance abuse program, which may include drug testing at the
discretion and direction of the Probation Office; 2) The defendant is
prohibited from possessing any illegal or dangerous weapons; and
3) The defendant shall provide the Probation Office access to any
requested financial information.Type of Supervision: Supervised Release Date Supervision Commenced: 7/16/2004**PETITIONING THE COURT**☒ To modify the conditions of supervision as follows:**General Condition:**That the defendant shall refrain from any unlawful use
of a controlled substance. The defendant shall submit
to one drug test within 15 days of the commencement
of supervision and at least two drug tests thereafter but
no more than eight valid drug tests per month during
the term of supervision (mandatory condition).

Special Condition No. 1: That the defendant shall participate and comply with substance abuse treatment which includes drug and alcohol testing, at the discretion and direction of the Probation Office. The defendant is to refrain from the possession and/or use of alcohol while participating in substance abuse treatment.

CAUSE

On 4/8/2005, the Court was informed that the offender's 3/28/2005 urine specimen tested positive for methamphetamine. Subsequently, the Court agreed not to take action against the offender given that he returned to individual substance abuse treatment at Hina Mauka - Waipahu. Subsequently, the offender completed substance abuse treatment and testing in September 2005.

Despite completing substance abuse treatment and testing, this officer now requests continued drug testing under the Violent Crimes Control Act for the following reasons:

1. The offender has had four different employments since his release and has been unable to keep steady employment for more than 6 months.
2. The offender continually submits late Monthly Supervision Reports.
3. The offender has had three different residences with various family members since his release.
4. The offender has been under more than normal stress during the past year given that his niece passed away, his girlfriend terminated their relationship, and the offender has had bouts with certain medical problems.

On 4/4/2006, this officer addressed the above-listed concerns with the offender and recommended that the offender allow this officer to drug-test him quarterly, at a minimum, as a risk-control activity. The offender agreed to the drug testing. He also agreed that should he revert back to illicit drugs, he would return to substance abuse treatment and testing.

On 4/4/2006, this officer spoke with the offender's attorney, Assistant Federal Public Defender Donna M. Gray, and Assistant U.S. Attorney Tracy A. Hino. Both parties agreed to the modification.

In support of the recommended modification, this officer notes that the offender's instant offenses include convictions for three counts of Distribution of Methamphetamine and one count of Distribution of 5 Grams or More of Methamphetamine. The offender's substance abuse history includes a multitude of illicit substances with methamphetamine use since approximately 1992.

Prob 12B
(7/93)

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Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release and/or Extend Term of Supervision. The subject waives his right to a hearing and to assistance of counsel.

Respectfully submitted by,



DEREK M. KIM
Senior U.S. Probation Officer

Approved by:



GENE DeMELLO, JR.
Supervising U.S. Probation Officer

Date: 7/6/2006

THE COURT ORDERS:

- ☒ The Modification of Conditions as Noted Above
☐ Other



DAVID ALAN EZRA
U.S. District Judge

7/13/06

Date

PROB 49
(5/96)

United States District Court

District of Hawaii

Waiver of Hearing to Modify Conditions of Probation/Supervised Release and/or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

- ☐ To extend the term of supervision for years, for a total term of years.
☒ To modify the conditions of supervision as follows:

General Condition:

That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than eight valid drug tests per month during the term of supervision (mandatory condition).

Special Condition No. 1:

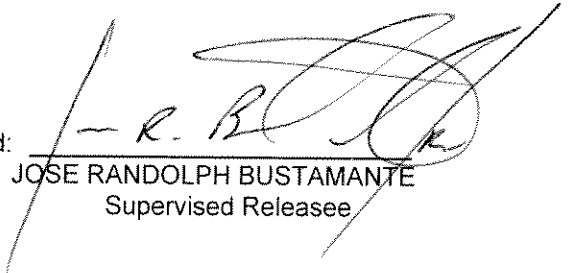
That the defendant shall participate and comply with substance abuse treatment which includes drug and alcohol testing, at the discretion and direction of the Probation Office. The defendant is to refrain from the possession and/or use of alcohol while participating in substance abuse treatment.

Witness:



DEREK M. KIM
Senior U.S. Probation Officer

Signed:



JOSE RANDOLPH BUSTAMANTE
Supervised Releasee

4/4/06

Date